THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27044 OF 2005

Dated: 20-12-2005

Between

Mariam Begum, W/o. Md. Ahmed Hussain, R/o. H.No.3-5-886/1, Narayanaguda, Himayathnagar, Hyderabad.

...PETITIONER

AND

Transmission Corporation of A.P. Ltd., rep. by its Chairman & Managing Director, Vidyut Soudha, Somajiguda, Hyderabad –500 049 and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in demanding the additional charges of electricity and the arrears of balance pilferage charges in respect of Service ConnectionNo.F3-740 under the category II as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

Learned counsel for the petitioner submits that petitioner is the consumer of electricity service connection No.F3-740 under Category II in respect of his house bearing No.3-5-886/1, Narayanaguda, Hyderabad. While so, the Divisional Engineer, Assessments and Buildings, APCPDCL, issued a show cause notice dated 29.12.2001 provisionally estimating the loss sustained by APCPDCL amounting to Rs.1,10,073/- and calling upon

the petitioner to submit his explanation within thirty days. The learned counsel further submits that pursuant to the said notice the petitioner deposited a sum of Rs.51,997/- on 11.07.2001 and filed an explanation within the prescribed time.

It is submitted that without passing any final order the respondents are demanding the petitioner to pay the balance amount.

Learned counsel for the petitioner submits that the under Section 126 of the Electricity Act, 2003 (for short 'the Act')

the provisional assessment charges and issuing notice demanding the same cannot be done unless a final order is passed under Section 126(6) of the Act after following the prescribed procedure.

This Court is of the opinion that without passing any final order and without giving reasonable opportunity to the petitioner,

the respondents cannot demand for payment of the estimated balance pilferage charges.

Having regard to the facts and circumstances of the case,

the writ petition is disposed of directing the respondents not to take any coercive steps for recovery of the balance pilferage charges from the petitioner pursuant to the impugned notice dated 29.12.2001

until final orders are passed in accordance with law.

_____

V. ESWARAIAH, J

December 20, 2005

DSK